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NOTIFICATION

No. 5229-LA7|61. *Dated, Trivandrum, 21st October 1961.*

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and Memorandum regarding delegated legislation is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

Legislature Secretariat,
Trivandrum.

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THE KERALA FIRE FORCE BILL, 1961

A

BILL

to provide for the maintenance of a Fire Force for the State of Kerala.

**Preamble.*—WHEREAS it is expedient to provide for the establishment and maintenance of a Fire Force in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Fire Force Act, 1961.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force in any area on such date as the Government may, by notification in the Gazette, appoint, and different dates may be appointed for different areas and for different provisions of this Act and any reference in any such provision to the area or areas in which the Act is in force shall be construed as a reference to the area or areas in which all or any of the provisions of this Act, are or is, in force.

2. *Definitions.*—In this Act, unless the context otherwise requires—

(a) "Collector" means the Chief Officer in charge of the revenue administration of the district and includes an acting or officiating Collector, and also any officer appointed by the Government to exercise the functions of the Collector.

(b) "Director" means the officer appointed by the Government as the Director of Fire Force for the State of Kerala;

(c) "fire-fighting property" includes—

(i) lands and buildings used as fire stations,

(ii) fire engines, equipments, tools, implements and things whatsoever used for fire-fighting,

(iii) motor vehicles and other means of transport used in connection with fire-fighting, and

(iv) uniforms and badges of rank;

(d) "fire-station" means any post or place declared generally or specially, by the Government to be a fire-station;

(e) "Force" means the Kerala Fire Force maintained under this Act;

(f) "officer-in-charge of a fire-station" includes when the officer-in-charge of the fire-station is absent from the station or unable from illness or other cause to perform his duties, the fire officer present at the station who is next in rank to such officer;

(g) "prescribed" means prescribed by rules made under this Act.

MAINTENANCE OF THE FIRE FORCE

3. *Maintenance of fire force.*—There shall be maintained by the Government a Fire Force to be called the Kerala Fire Force for services in the local areas in which this Act is in force.

4. *Superintendence and control of the Force.*—(1) The Superintendence and control of the Force shall vest in the Director and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.

(2) The Government may appoint such officers as it may deem fit to assist the Director in the discharge of his duties.

5. *Appointment of members of the Force.*—The Director or such other officer of the Force as the Government may authorise in this behalf shall appoint members of the Force in accordance with the rules made under this Act.

6. *Issue of certificate to members of Force.*—(1) Every person shall, on appointment to the Force, receive a certificate in the prescribed form under the seal of the Director or an officer authorised in this behalf by the Government; and thereupon such person shall have the powers, functions and privileges of a member of the Force under this Act.

(2) The certificate referred to in sub-section (1) shall cease to have effect when the person named therein ceases for any reason to be a member of the Force; and on his ceasing to be such member, he shall forthwith surrender the certificate to any officer empowered to receive the same.

(3) During any term of suspension, the powers, functions and privileges vested in any member of the Force shall be in abeyance, but such member shall continue to be subject to the same discipline and penalties as he would have been if he had not been suspended.

7. *Auxiliary Fire Force.*—(1) Whenever it appears to the Government that it is necessary to augment the Force, it may raise an auxiliary force by enrolment of volunteers for such areas and on such terms and conditions as it may deem fit.

(2) Every such volunteer shall, receive a certificate in the prescribed form, have the same powers and protection, be liable to all such duties and penalties and be subordinate to the same authorities as the ordinary Force.

CHAPTER II

POWERS OF THE GOVERNMENT, THE DIRECTOR AND MEMBERS OF THE FORCE

8. *Power of Government to make orders.*—The Government may, from time to time, make such general or special orders as it thinks fit—

(a) for providing the Force with such appliances and equipments as it deems proper;

(b) for providing adequate supply of water and for securing that it shall be available for use;

(c) for constructing or providing stations or hiring places for accommodating the members of the Force and its fire-fighting appliances;

(d) for giving rewards to persons who have given notice of fires and to those who have rendered effective service to the Force on the occasion of fires;

(e) for the training, discipline and good conduct of the members of the Force;

(f) for the speedy attendance of members of the Force with necessary appliances and equipment on the occasion of any alarm of fire;

(g) for sending members of the Force with appliances and equipment beyond the limits of any area in which this Act is in force for purposes of fire-fighting in the neighbourhood of such limits;

(h) for the employment of the members of the Force in any rescue, salvage or other similar work;

(i) for regulating and controlling the powers, duties and functions of the Director; and

(j) generally for the maintenance of the Force in a due state of efficiency.

9. *Powers of members of the Force on occasion of fire.*—(1) On the occasion of fire in any area in which this Act is in force, any member of the Force who is in charge of fire-fighting operations on the spot may—

(a) remove, or order any other member of the Force to remove, any person who by his presence interferes with or impedes the operation for extinguishing the fire, or for saving life or property;

(b) close any street or passage in or near which a fire is burning;

(c) for the purpose of extinguishing fire, break into or through or pull down, any premises for the passage of hose or appliances or cause them to be broken into or through or pulled down, doing as little damage as possible;

(d) require the authority in charge of water supply in the area to regulate the water mains so as to provide water at a specified pressure at the place where fire has broken out and utilise the water of any stream, cistern, well or tank or of any available source of water, public or private for the purpose of extinguishing or limiting the spread of such fire;

(e) exercise the same powers for dispersing an assembly of persons likely to obstruct the fire-fighting operations as if he were an officer-in-charge of a police station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such an officer, in respect of the exercise of such powers;

(f) generally take such measures as may appear to him to be necessary for extinguishing the fire or for the protection of life or property.

(2) Any damage done on the occasion of fire by members of the Force in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

10. *Power of Director to make arrangements for supply of water.*—The Director may, with the previous sanction of the Government, enter into an agreement with the authority in charge of water supply in any area for securing an adequate supply of water in case of fire, on such terms as to payment or otherwise as may be specified in the agreement.

11. *Power of Director to enter into arrangements for assistance.*—The Director may, with the previous sanction of the Government, enter into arrangements with any person who employs and maintains personnel, or keeps equipments for fire-fighting purposes, to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the personnel or the equipment or any other assistance, for the purpose of dealing with fire, in any area in which this Act is in force.

12. *Preventive measures.*—(1) The Government may, by notification in the Gazette, require owners or occupiers of premises in any area or of any class of premises used for purposes which in its opinion are likely to cause a risk of fire, to take such precautions as may be specified in such notification.

(2) Where a notification has been issued under sub-section (1), it shall be lawful for the Director or any officer of the Force authorised by the Government in this behalf to direct the removal of objects or goods likely to cause a risk of fire, to a place of safety; and on failure of the owner or occupier to do so, the Director or such officer may, after giving the owner or occupier a reasonable opportunity of making representation, seize, detain or remove such objects or goods.

CHAPTER III

EXPENDITURE ON MAINTENANCE OF FORCE

13. *Expenditure on the Force.*—(1) The entire expenditure in connection with the Force shall be met out of the Consolidated Fund of the State:

Provided that the Government may recover from any local authority of any area in which this Act is in force such contribution towards the cost of the portion of the Force maintained in that area as the Government may direct from time to time.

(2) Nothing contained in the proviso to sub-section (1) shall be deemed to authorise the recovery of contribution from any local authority within the local limits of which fire tax is levied under section 14.

14. *Levy of fire tax.*—(1) There may be levied a fire tax on lands and buildings which are sithated in any area in which this Act is in force and on which property tax by whatever name called is levied by any local authority in that area.

(2) The fire tax shall be levied in the form of a surcharge on the property tax at such rate not exceeding twenty per cent of such property tax as the Government may by notification, in the Gazette, determine.

15. *Mode of assessment, collection etc., of fire tax.*—The authorities for the time being empowered to assess, collect and enforce payment of property tax under the law authorising the local authority of the area to levy such tax shall, on behalf of the Government and subject to any rules made under this Act, assess, collect and enforce payment of the fire tax in the same manner as the property tax is assessed, paid and collected; and for this purpose, they may exercise all or any of the powers they have under the law aforesaid and the provisions of such law including provisions relating to returns, appeals, reviews, revisions, references and penalties shall apply accordingly.

(2) Such portion of the total proceeds of the fire tax as the Government may determine shall be deducted to meet the cost of collection of the tax.

(3) The proceeds of the fire tax collected under this Act reduced by the cost of collection shall be paid to the Government in such manner and at such intervals as may be prescribed.

16. *Fees.*—(1) Where members of the Force are sent beyond the limits of any area in which this Act is in force, in order to extinguish a fire in the neighbourhood of such limits, the owner or occupier of the premises where the fire occurred or spread shall be liable to pay such fee as may be prescribed in this behalf.

(2) The fee referred to in sub-section (1) shall be payable within one month of the service of a notice of demand by the Director on the owner or occupier and if it is not paid within that period, it shall be recoverable as an arrear of land revenue.

CHAPTER IV

Acquisition of Fire Fighting Property.

17. *Prohibition against transfer of fire fighting property.*—No local authority of any area in which this Act is in force shall, transfer or otherwise part with any fire fighting property without the previous sanction of the Government.

18. *Acquisition of fire fighting property.*—(1) If, after making such inquiry and investigation as it deems necessary and after giving the local authority an opportunity to make its representations, the Government is of opinion that the standard of efficiency of the fire fighting personnel and equipment maintained by the local authority is not adequate to meet the normal requirements of the area, the Government may acquire the fire fighting property of the local authority by publishing in the Gazette a notice to the effect that the Government has decided to acquire such property on payment of compensation; a copy of such notice shall also be served on the local authority.

(2) When a notice as aforesaid is published in the Gazette, the property specified in such notice shall on and from the beginning of the date on which the notice is so published, vest absolutely in the Government free from all encumbrances.

19. *Principles and method of determining compensation.*—(1) The amount of compensation payable in respect of any fire fighting property acquired under this Act shall be the market value of such property on the date of issue of the notice referred to in section 18, that is, the price which it would have fetched in the open market if it had been sold on that date.

(2) The amount of compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as a District Judge;

(c) the Government may in any particular case nominate a person having expert knowledge as to the nature of the property acquired to assist the arbitrator and where such nomination is made, the local authority concerned may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the local authority shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall after hearing the dispute make an award determining the amount of compensation which appears to him to be just; and in making the award he shall have regard to the circumstances of each case and the provisions of this section;

(f) nothing in the Arbitration Act, 1940 (Central Act 10 of 1940) shall apply to arbitrations under this section.

20. *Appeals from awards in respect of compensation.*—Where the Government or a local authority is aggrieved by an award of the arbitrator under section 19, it may within thirty days from the date of such award prefer an appeal to the High Court.

21. *Powers of arbitrator.*—The arbitrator appointed under section 19, while holding arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits; and

(d) issuing commissions for examination of witnesses.

CHAPTER V

PENALTIES.

22. *Penalty for violation of duty etc.*—Any member of the Force who—

(a) is found to be guilty of any violation of duty or wilful breach of any provision of this Act or any rule or order made thereunder, or

(b) is found to be guilty of cowardice, or

(c) withdraws from the duties of his office without permission or without having given previous notice of at least two months, or

(d) being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave, or

(e) accepts any other employment or office in contravention of the provisions of section 28,

shall be punishable with imprisonment which may extend to three months or with fine which may extend to an amount not exceeding three months' pay of such member or with both.

23. *Failure to give information.*—Any person who without just cause fails to communicate information in his possession regarding an outbreak of fire shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

24. *Failure to take precautions.*—Whoever fails without reasonable cause to comply with any of the requirements specified in a notification issued under sub-section (1) of section 12 or of a direction issued under sub-section (2) of that section shall be punishable with fine which may extend to five hundred rupees.

25. *Wilfully obstructing fire fighting operations.*—Any person who wilfully obstructs or interferes with any member of the Force who is engaged in fire-fighting operations shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

26. *False report.*—Any person who knowingly gives or causes to be given a false report of the outbreak of a fire to any person authorised to receive such report by means of a statement, message or otherwise shall be punishable with imprisonment for three months or with fine not exceeding five hundred rupees or with both.

CHAPTER VI

General and Miscellaneous.

27. *Training Centres.*—The Government may establish and maintain one or more training centres in the State for providing courses of instruction in the prevention and extinguishment of fire and may close down or re-establish any such centre.

28. *Bar to other employment.*—No member of the Force shall engage in any employment or office whatsoever other than his duties under this Act unless expressly permitted to do so by the Director.

29. *Transfer to other area.*—The Director or any officer authorised by the Government in this behalf may, on the occasion of a fire or other emergency in any neighbouring area in which this Act is not in force, order the despatch of the members of the Force with necessary appliances and equipments to carry on fire fighting operations in such neighbouring area and thereupon all the provisions of this Act and the rules made thereunder shall apply to such area, during the period of fire or emergency or during such period as the Director may specify.

30. *Employment on other duties.*—It shall be lawful for the Government or any officer authorised by it in this behalf to

employ the Force in any rescue, salvage or other work for which it is suitable by reason of its training, appliances and equipment.

31. *Liability of owner of property to pay compensation.*—(1) Any person whose property catches fire on account of any action of his own or of his agent done deliberately or negligently shall be liable to pay compensation to any other person suffering damages to his property on account of any action taken under section 9 of this Act by any officer mentioned therein or any person acting under the authority of such officer.

(2) All claims under sub-section (1) shall be preferred to the Collector within thirty days from the date when the damage was caused.

(3) The Collector shall, after giving the parties an opportunity of being heard, determine the amount of compensation due and pass an order stating such amount and the person liable for the same and the order as passed shall be subject to revision by the Government. The orders so passed shall have the force of a decree of a Civil Court.

32. *Inquiry into origin of fire and report to Magistrate.*—Where any fire has occurred within any area in which this Act is in force, the seniormost officer in rank among the members of the Force in that area shall ascertain the fact as to the origin and cause of such fire and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire occurs; and the said Magistrate shall in any case where he may deem fit summon witnesses and take evidence in order to further ascertain such facts.

33. *Power to obtain information.*—Any officer of the Force not below the rank of an officer in charge of a fire-station may for the purpose of discharging his duties under the Act require the owner or occupier of any building or other property to supply information with respect to the character of such building or other property, the available water supplies and the means of access thereto and other material particulars and such owner or occupier shall furnish all the information in his possession.

34. *Power of entry.*—(1) The Director or any member of the Force authorised by him in this behalf may enter any of the places specified in any notification issued under section 12 for the purpose of determining whether precautions against fire required to be taken on such place have been so taken.

(2) Save as otherwise expressly provided in this Act, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1).

35. *Consumption of water.*—No charge shall be made by any local authority for water consumed in fire fighting operations by the Force.

36. *No compensation for interruption of water supply.*—No authority in charge of water supply in an area shall be liable to any claim for compensation for damage by reason of any interruption of supply of water occasioned only by compliance of such authority with the requirement specified in clause (d) of section 9.

37. *Police Officers to aid.*—It shall be the duty of police officers of all ranks to aid the members of the Force in the execution of their duties under the Act.

38. *Information on outbreak of fire.*—Any person who possesses any information regarding an outbreak of fire shall communicate the same without delay to the nearest fire station.

39. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

40. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the number and grades of officers and members of the Force;

(b) the manner of appointment of members of the Force;

(c) the form of the certificate to be issued to the members of the Force;

(d) the conditions of service of the members of Force including their ranks, pay and allowances, hours of duty and leave, maintenance of discipline and removal from service;

(e) the circumstances in which and the conditions (including the levy of fee) subject to which members of the Force may be despatched to carry on fire fighting operations in neighbouring areas beyond the limits of the area in which this Act is in force;

(f) the conditions subject to which members of the force may be employed on rescue, salvage or other work;

(g) the manner in which and the intervals at which the proceeds of the fire tax levied under this Act shall be paid to the Government.

(h) the manner of service of notice under this Act;

(i) the procedure to be followed in arbitration proceedings under section 19;

(j) the payment of rewards to persons, not being members of the Force, who render services for fire-fighting purposes;

(k) the compensation payable to members of the Force in case of accidents or to their dependants in case of death while engaged on duty;

(l) for the employment of members of the Force or use of any equipment outside the area or on special services and the fee payable therefor; and

(m) any other matter which is to be or may be prescribed.

(3) All rules made under this Act shall be laid, for not less than 14 days, before the Legislative Assembly, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

41. *Repeal and saving.*—If immediately before the day on which this Act comes into force in an area, there is in force in that area any law or rule having the force of law which corresponds to this Act, such corresponding law in so far as it relates to any matter for which provision has been made in this Act shall on that day stand repealed:

Provided that such repeal shall not be deemed to limit, modify or derogate from the general responsibility of any local authority—

(a) to provide and maintain such water supply and fire hydrants for fire-fighting purposes as may be directed by the Government from time to time;

(b) to frame bye-laws for the regulation of dangerous trades;

(c) to order any of its employees to render aid in fighting a fire when reasonably called upon to do so by any member of the Force; and

(d) generally to take such measures as will lessen the likelihood of fire or preventing the spread of fires.

STATEMENT OF OBJECTS AND REASONS

The Government of India set up an Experts Committee on fire fighting in 1950. The Committee recommended that there should be uniform Fire legislation in all the States subject to such modifications as local circumstances may require. Based on the recommendations of the Committee, the Government of India prepared a Model Fire Force Bill. The Kerala Fire Force Bill is based on this model Bill. Its object is to improve the efficiency of Fire Services in the State and to ensure that the Fire Force would be ready to deal with all emergencies whatever their nature may be.

FINANCIAL MEMORANDUM

Clause 13 of the Bill provides that the entire expenditure in connection with the Fire Force shall be met out of tho consolidated fund of the State. In the budget for 1961-62 the provision made for the Fire Services is Rs. 11,32,700. Since there are only enabling provisions for the recovery of contribution from local authorities and for the levy of fire tax, it is not possible to estimate the probable receipts from these sources. It is also not possible to estimate accurately the increase in the expenditure consequent on the enactment of the Kerala Fire Force Bill. However an additional expenditure of Rs. 50,000 per annum is anticipated.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 40 of the Bill empowers Government to make rules for carrying out the purposes of the Act and in particular with respect to the matters specified therein. They relate *inter alia* to the number and grades of officers and members of the Force and the manner of their appointment, the circumstances and conditions under which the members of the Force may be despatched for fire-fighting beyond the limits of the areas in which the Act is brought into force and for rescue, salvage or other works, payment to the Government of the proceeds of the fire tax levied, compensation payable in cases of accidents and deaths and employment of members of the Force on special services. The matters in respect of which rules may be made are of a routine and administrative character. Moreover the rules shall be subject to the scrutiny of the Legislative Assembly. The delegation of legislative powers is thus, of a normal character.

P. T. CHACKO